

reflective of a limited species election, and represent a limited number of potential amino acid substitutions relative to the native protein, and are not just random variations to the native sequence. For the second ECM binding site, the selection of the variants is the result of comparison with other similar sequences with other binding proteins, as presented in the present specification on page 6. The amino acids that have been defined as being altered are ones that are charged and can reasonably be expected to provide the result sought. The first ECM site is suggested on the basis of homology with the consensus sequence for matrix binding proteins (line 29, 30 page 4 of the present specification). Targeting of variations in these very specific sites, in particular the first ECM binding site, is the unifying inventive feature of the claims.

Of the proposed sequences a reasonable number have been tested, thus, for the first ECM binding site, 2 of the 4 proposed mutants have been tested and for the second ECM binding site 3 of the 4 proposed mutants have been tested. The claims are thus not based on mere speculation. Thus, many of the variations defined in claims 4/21 and 5/22 have not only been suggested on a reasonable scientific basis, but they have also been tested. Consequently, the Examiner should examine all of the species of claims 4/21 and 5/22.

Moreover, it is submitted that even having regard to restriction practice in relation to polynucleotides, the two claims 4/21 and 5/22 present a reasonable number of molecules. Thus, with respect to claims 4 and 5 (note claims 4 and 5 are each proposed to be amended to only 4 variants- SEQ ID No: 9 and SEQ ID No: 14 will be deleted) only 4 variants are presented. That is a limited number of species from which the Examiner may readily examine the present application.

However, Applicants respectfully submit that prosecution of all the original claims is appropriate and the original claims as presented should not be further restricted, given that the related generic subject matter set forth in the claims filed with the preliminary amendment are sufficiently narrow to be examined in a single patent application.

According to M.P.E.P. §803, restriction by the Examiner of patentably distinct inventions is proper if the claimed inventions are independent and a serious burden would be placed on the Examiner if restriction was not required. Applicants respectfully submit that the presentation of the original claims would not place such a serious burden on the Examiner as to require restriction. All of the originally filed claims are related, though patentably distinct inventions. Thus, pursuant to the foregoing, Applicants respectfully submit that any search the Examiner would need to conduct in examining all of the claims of the instant application would not be unduly burdensome and should be examined in the present application.

Applicants understand the general policy considerations for the Patent Office's requirement for restriction in certain instances. In this instance, however, those considerations do not weigh in favor of restricting the inventions here. In determining the appropriateness of restriction, one must also consider the countervailing consideration that, in each instance, Applicant wishes the Patent Office to examine his or her application with a certain degree of "administrative efficiency" and wishes to have patent claims issue which reflect the breadth of his or her invention.

Applicants respectfully submit that the pending claims are sufficiently narrow to allow the Examiner to determine patentability without being subjected to the serious burden referred to in M.P.E.P. §803. Consequently, Applicants respectfully request that the Examiner withdraw the restriction requirement for all of the claims which were originally presented.

Thus, notwithstanding Applicants' species election, Applicants respectfully request that the Examiner give consideration to examination of all of the species of claims 4/21 and 5/22, and the claims which are related to same, namely, 1-6, 7-24 and 36-41.

Inasmuch as this response may raise additional issues for the Examiner's consideration, the Examiner is respectfully requested to call the undersigned attorney at the number set forth below, should there be a need to discuss this restriction requirement and Applicants' provisional election.

No fee is believed due for the presentation of this response. A petition for an extension of time is due as is a fee of \$60 (small entity applies). If any additional fee is due or any credit is owed, please debit/credit deposit account 04-0838. Small entity status applies to the present application.

Respectfully submitted,

COLEMAN SUDOL SAPONE, P.C.

By:

Henry D. Coleman  
Reg. No. 32,559  
714 Colorado Avenue  
Bridgeport, Connecticut 06605

(203) 366-3560

Dated: June 20, 2006

#### Certificate of Mailing

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, MailStop: Amendment, P.O. Box 1450, Alexandria, Virginia 22313-1450.  
On June 20, 2006.

Henry D. Coleman (Reg. No. 32,559)